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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DEEPAKUMAR SUBBIAN,
MAYUR S. SALGAR, and MARINE DRIVE

Appeal 2015-004261
Application 12/787,524¹
Technology Center 2600

Before JASON V. MORGAN, SHARON FENICK, and
AARON W. MOORE *Administrative Patent Judges*.

FENICK, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 3–10, 12–19, and 21–23. (Appeal Br. 2.) Claims 2, 11, and 20 are cancelled. (*Id.* at 15, 17, 19.) We have jurisdiction under 35 U.S.C. § 6(b)(1).

We affirm.

¹ Appellants identify Honeywell International, Inc., as the real party in interest. (Appeal Br. 2.)

Invention

Appellants' invention relates to time-based review of alarm incidents, including providing a floor map plan with representations of alarms which were activated during a past alarm incident. (Spec., Abstract.)

Exemplary Claim

Claim 1, reproduced below, is exemplary:

1. A method comprising:
 - providing, on a user interface, a floor plan map of a monitored area;
 - providing, on the user interface, a list of past alarm incidents that occurred in the monitored area including at least a portion of yesterday's alarm incidents;
 - receiving, via the user interface, input to select at least one past alarm incident from the list of past alarm incidents;
 - a processor determining a time corresponding to when the selected at least one past alarm incident was active;
 - the processor determining other alarms in the monitored area that were active during the determined time;
 - the processor identifying, on the floor plan map provided on the user interface, a location of the selected at least one past alarm incident; and
 - the processor identifying, on the floor plan map provided on the user interface, respective locations of the other alarms that were active during the determined time.

Rejections

The Examiner rejects claims 1, 3–10, and 12–19 under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Roe (US 6,529,137 B1; iss. Mar. 4, 2003) and Dawson (US 2002/0154743 A1; pub. Oct. 24, 2002). (Final Action 3–8).

The Examiner rejects claims 21–23 under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Roe, Hoveida (US 7,961,087 B2; iss. June 14, 2011), and Dawson. (Final Action 8–10).

Issues

I. Did the Examiner err finding that claim 1 is unpatentable over the combination of Roe and Dawson?

II. Did the Examiner err in finding that claim 21 is unpatentable over the combination of Roe and Dawson?

ANALYSIS

(I) Obviousness Rejection – Claim 1

The Examiner rejects Claim 1 as unpatentable over Roe and Dawson. (Final Action 3–5.) With respect to this rejection, Appellants argue “Roe . . . does not allow a user to select an alarm incident in the past for the purposes of forensic analysis.” (Appeal Br. 8.) However, we agree with the Examiner that Roe teaches or suggests providing past alarm incidents for selection, including in its Fig. 5, which includes a display of active alarms and an indication of the availability of historical information. (Final Action 3–4; Answer 3–4.)

Apart from the statement quoted, Appellants’ obviousness arguments are general and conclusory. Appellants argue “[i]n general” that the cited art fails to disclose the steps of the claim. (Appeal Br. 9.) Appellants argue that “[i]n general, a prima facie case of obviousness has not been established.” (*Id.* at 10–11.) Appellants cite case law, in general, regarding obviousness, combination of prior art, and hindsight reconstruction. (*Id.* at 11–12.) Appellant then concludes “that it does not require a close examination of the

record to determine that the Examiner has failed to meet the burden of establishing a *prima facie* case of obviousness.” (*Id.* at 12.) However, these statements do not rise to the level of a substantive argument. 37 C.F.R. § 41.37(c)(iv) (2014); *see also In re Lovin*, 652 F.3d at 1349, 1357 (Fed. Cir. 2011).

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner’s position. *See In re Kahn*, 441 F.3d 977, 985–86 (Fed. Cir. 2006) (“On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness” (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998))). They have not met this burden.

Appellants argue further that, as the prior art and combinations asserted “do not recognize the problem solved by the claimed invention,” there would be no reason to combine the references. (Appeal Br. 12–13.) Appellants do not address the Examiner’s stated reason to combine Roe and Dawson (“for the purpose of evaluating performance and responses of security”) (Final Action 5). Even were this not the problem solved by Appellants, “[i]n considering motivation in the obviousness analysis, the problem examined is not the specific problem solved by the invention.” *Kahn*, 441 F.3d at 988 (Fed. Cir. 2006).

Appellants provide no further argument with respect to the combination of the prior art references, and all other arguments are waived. 37 C.F.R. § 41.37(c)(1)(iv) (2014). While Appellants make arguments with respect to claim 1 in the Reply Brief which are not made in the Appeal Brief (Reply Br. 3–4) these are again conclusory, and additionally are not timely,

as they are not presented in response to new findings or rejections by the Examiner. A reply brief may not contain any new factual or legal arguments to rebut Examiner rejections that could have been made in the principal appeal brief. 37 C.F.R. § 41.41(b)(1) (2014).

Thus, we are not persuaded of error in the Examiner's rejection of claim 1. We sustain the obviousness rejection of claim 1 and of claims 3–10 and 12–19, not argued separately (Appeal Br. 8).

(II) *Obviousness Rejection – Claim 21*

With respect to claim 21, Appellants argue that Roe “merely discloses currently active alarms,” that Hoveida “merely discloses past alarm messages,” and that neither disclose a timeline of past activation of alarms. (Appeal Br. 9–10.) Appellants' arguments are not responsive to the specific findings of the Examiner with respect to the disclosures of Roe and Hoveida (Final Action 8–9), and are therefore unpersuasive. Moreover, Appellants arguments regarding the references separately are unpersuasive because one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *See In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (citing *In re Keller*, 642 F.2d 413, 425 (CCPA 1981)). We are not persuaded of error in the Examiner's findings and conclusions with respect to the timeline limitation.

With respect to claim 21, the arguments that the Examiner has failed to establish a *prima facie* case of obviousness or shown a reason to combine the cited references are unpersuasive for the reasons detailed *supra*.

Thus, we are not persuaded of error in the Examiner's rejection of claim 21. We sustain the obviousness rejection of claim 21 and of claims 22 and 23, not argued separately (Appeal Br. 9).

DECISION

The Examiner's 35 U.S.C. § 103(a) rejection of claims 1, 3–10, 12–19, and 21–23 is affirmed.

Pursuant to 37 C.F.R. § 1.136(a)(1)(iv), no time period for taking any subsequent action in connection with this appeal may be extended.

AFFIRMED